

information and data broadcasting or data distribution services, ADP backup and security services, ADP data conversion services, computer aided design/computer aided manufacturing (CAD/CAM) services, digitizing services (including cartographic and geographic information), telecommunications network management services, automated news services, data services or other information services (e.g., buying data, the electronic equivalent of books, periodicals, newspapers, etc.) and data storage on tapes, compact disks, etc. This category does not include ADP data entry services or ADP optical scanning services;

(B) Automobile or other vehicle (e.g., aircraft) maintenance services (other than subcontracts to operate a Government motor pool or similar facility);

(C) Financial services involving the issuance and servicing of cards (including credit cards, debit cards, purchase cards, smart cards, and similar card services);

(D) Lodging at hotels/motels and contracts with hotels/motels for conferences, including lodging and/or meals, which are part of the subcontract for the conference;

(E) Maintenance services for all types of specialized building or facility equipment such as elevators, escalators, temperature control systems, security systems, smoke and/or heat detection equipment, etc;

(F) Maintenance, calibration, repair, or installation (where the installation is not subject to the Davis-Bacon Act, as provided in § 4.116(c)(2) of this part) services for all types of equipment where the services are obtained from the manufacturer or supplier of the equipment;

(G) Transportation of persons by air, motor vehicle, rail, or marine vessel on regularly scheduled routes or via standard commercial services (not including charter services);

(H) Real estate services, including real property appraisal services, related to housing federal agencies or disposing of real property owned by the Federal Government; and

(I) Relocation services, including services of real estate brokers and appraisers to assist federal employees or military personnel in buying and selling homes.

(ii) The exemption set forth in this paragraph (e)(3) shall apply to the services listed in paragraphs (e)(3)(i) of this section only when all of the following criteria are met:

(A) The services under the subcontract are commercial—i.e., they are offered and sold regularly to non-

Governmental customers, and are provided by the subcontractor to the general public in substantial quantities in the course of normal business operations;

(B) The subcontract will be awarded on a sole source basis or the subcontractor will be selected for award on the basis of other factors in addition to price. In such cases, price must be equal to or less important than the combination of other non-price or cost factors in selecting the subcontractor.

(C) The subcontract services are furnished at prices which are, or are based on, established catalog or market prices. An established price is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the subcontractor, is either published or otherwise available for inspection by customers, and states prices at which sales are currently, or were last, made to a significant number of buyers constituting the general public. An established market price is a current price, established in the usual course of trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or subcontractor. Normally, market price information is taken from independent market reports, but market price could be established by surveying the firms in a particular industry or market;

(D) All of the service employees who will perform the services under the subcontract spend only a small portion of their time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the government subcontract;

(E) The subcontractor utilizes the same compensation (wage and fringe benefits) plan for all service employees performing work under the subcontract as the subcontractor uses for these employees and for equivalent employees servicing commercial customers;

(F) The prime contractor determines in advance, based on the nature of the subcontract requirements and knowledge of the practices of likely offerors, that all or nearly all offerors will meet the above requirements. If the services are currently being performed under a contract or subcontract, the prime contractor shall consider the practices of the existing contractor or subcontractor in making a determination regarding the above requirements; and

(G) The exempted subcontractor certifies in the subcontract to the

provisions in paragraphs (e)(3)(ii)(A) and (C) through (E) of this section. The prime contractor shall review available information concerning the subcontractor and the manner in which the subcontract will be performed. If the prime contractor has reason to doubt the validity of the certification, SCA stipulations shall be included in the subcontract.

(iii) The prime contractor is responsible for compliance with the requirements of the Service Contract Act by its subcontractors, including compliance with all of the requirements of this exemption (see § 4.114(b) of this part). If the Department of Labor determines that any of the above requirements for exemption has not been met with respect to a subcontract, the exemption will be deemed inapplicable, and the prime contractor may be responsible for compliance with the Act, effective as of the date of contract award.

(iv) The exemption set forth in this paragraph (e)(3) does not apply to solicitations and subcontracts subject to Section 4(c) of the Service Contract Act.

Signed at Washington, D.C., on this 19th day of July, 2000.

T. Michael Kerr,

Administrator, Wage and Hour Division.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Juan 00-065]

RIN 2115-AA97

Safety Zone Regulation for San Juan Harbor, Puerto Rico

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone within a 1500 foot radius surrounding the drill boat Apache while it is engaged in drilling or blasting operations. The drill boat will operate at the entrance to San Juan Harbor, Puerto Rico. The safety zone is necessary to protect vessels and personnel in the vicinity of the drilling and blasting operations. Entry into this zone is prohibited, unless authorized by the Captain of the Port.

DATES: This rule is effective from 7 a.m., Atlantic Standard Time, on July 11, 2000, to 11:59 p.m., Atlantic Standard Time, October 31, 2000.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander Robert Lefevers, Chief of Port Operations, Coast Guard Marine Safety Office San Juan, telephone (787) 706-2440.

ADDRESSES: Documents indicated in this preamble are available in the docket, are part of docket COTP San Juan 00-065, and are available for inspection or copying at the USCG Marine Safety Office, Rodriguez and Del Valle Building, 4th Floor, Calle San Martin, Road #2, Guaynabo, Puerto Rico, between the hours of 7:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. It was impracticable to attempt to publish a NPRM for this situation due to the inherent difficulties in scheduling marine dredging operations, and the temporary nature of this regulation.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** because the operational schedule for the drilling and blasting was not finalized until a June 21, 2000 meeting between the U.S. Coast Guard, Army Corps of Engineers and Contract Drilling and Blasting.

Background and Purpose

These regulations are needed to provide for the safety of life on navigable waters from hazards associated with drilling and blasting operations that will occur at the entrance to San Juan Harbor, Puerto Rico.

The drilling and blasting operations will be conducted to the west of the San Juan Harbor bar entrance channel, between buoys number 1 and number 4, in the approximate position of 18°28.3691' N, 066°07.6889' W. The drilling and blasting operations will occur outside of the navigation channel.

To further ensure the safety of life, the contractor conducting the drilling and blasting operations will, 15 minutes prior to any detonation, send two small boats outside the safety zone to advise mariners of the operation.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that

Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary as the operation will not significantly impede navigation and commercial activity due to the low frequency of occurrence and extremely short duration.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit in a portion of San Juan Harbor from July 11, 2000 to October 31, 2000. This special local regulation will not have a significant economic impact on a substantial number of small entities because this rule will be in effect sporadically, and vessel traffic can pass safely around the regulated area.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub.L. 104-121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with

Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act (44 U.S.C. 3501-3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

Environment

The Coast Guard has considered the environmental impact of this rule and concluded that under figure 2-1, paragraph 34(g) of Commandant Instruction M16475.1C, this rule is

categorically excluded from further environmental documentation because it is establishing a temporary safety zone.

List of Subjects In 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, and Safety measures, Waterways.

For the reasons discussed in the Preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—REGULATED AREAS AND LIMITED NAVIGATION AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. Temporary § 165.T00–065 is added to read as follows:

§ 165.T07–065 Safety Zone; San Juan Harbor, Puerto Rico

(a) *Regulated Area.* A temporary safety zone is established within a 1500-foot radius surrounding the drill boat Apache, operating at the entrance to San Juan Harbor in the approximate position of 18°28.3691' N, 066°07.6889' W, when the vessel is conducting drilling or blasting.

(b) *Regulations.* (1) In accordance with the general regulations in 165.23 of this part, entry into, anchoring, mooring or transiting in this zone is prohibited unless authorized by the Coast Guard Captain of the Port.

(2) Notifications of blasting or drilling operations will be broadcast via VHF–FM radio Channel 16 beginning 2 hours prior to operations.

(c) *Dates.* These regulations become effective at 7 a.m., (ast), on July 9, 2000, and expires at 11:59 p.m., (ast), October 31, 2000.

Dated: July 6, 2000.

J. Servidio,

Commander, U.S. Coast Guard, Captain of the Port, San Juan, Puerto Rico.

[FR Doc. 00–18937 Filed 7–25–00; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–00–185]

RIN 2115–AA97

Safety Zone: IB 909 Barge Conducting Outfall Pipe Construction in Massachusetts Bay

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Cashman/Interberton IB 909 barge conducting outfall pipe construction in Massachusetts Bay. The safety zone temporarily closes all waters in Massachusetts Bay within a five hundred (500) yard radius of the IB 909 barge located at position 42°23'19.57"N, 070°46'50.12"W.

DATES: This rule is in effect from Friday, July 7, 2000 until Saturday, October 21, 2000.

ADDRESSES: Comments and Material received from the public, as well as documents as indicated in this preamble are part of docket CG D01–00–185 and are available for inspection or copying at Marine Safety Office Boston, 455 Commercial Street, Boston, MA 02109 between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Lieutenant (junior grade) David Sherry, Marine Safety Office Boston, Waterways Management Division, at (617) 223–3000.

SUPPLEMENTARY INFORMATION:

Regulatory Information

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after **Federal Register** publication. Conclusive information about this event was not provided to the Coast Guard until June 14, 2000, making it impossible to draft or publish a NPRM or a final rule 30 days in advance of its effective date. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to close a portion of the waterway and protect the maritime public from the hazards associated with this construction project.

Background and Purpose

This regulation establishes a safety zone on the waters of Massachusetts Bay in a five hundred (500) yard radius around the IB 909 construction barge located at position 42°23'19.57"N, 070°46'50.12"W. The safety zone is in effect from Friday, July 7, 2000 until Saturday, October 21, 2000. This safety zone prohibits entry into or movement within this portion of Massachusetts Bay and is needed to protect the maritime public from the dangers posed by this construction project.

Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

Due to the limited size of the safety zone, the fact that the safety zone will not restrict navigational channels, and the advance maritime advisories that will be made, the Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Massachusetts Bay in the vicinity of 42°23'19.57"N, 070°46'50.12"W from July 7, 2000 until October 21, 2000.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: mariners may freely navigate around the safety zone